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ProductiveEnvironmentsInc 508-460-9277

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ART UNIT
1772Fax 703-872-9310
ATTN: NASSER AHMAD

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DCS-TWOSIDEDSTICKEYS

Applicant : David C. Schwartz
Serial no : 09/735,375
Filed : 12/12/2000
For : TWO SIDED STICKYS
Group art unit : 37221772
Examiner : Nasser Ahmad

note
Fee of \$55
to P.O. -
Credit Card payment
procedure

Hon. Commissioner of Patents and Trademarks
Washington, D.C. 20231

Southboro, MA 05/05/2003

RESPONSE TO OFFICE ACTION

This filing is responsive to the office action January 8, 2003. The response is filed 1 month in extension. Therefore a payment of \$55.00 is filed for a small entity using the Credit Card payment procedure. Applicant has faxed his response using the number 703-872-9310 along with which the CREDIT CARD PAYMENT IS INCLUDED. A confirmation copy is being sent today by Express Mail and will be marked copy. Solely this one payment is submitted with the Faxed in for use by the finance office. The copy is so marked in the mailed in papers and in this way we will not be billed twice for this transaction. If for any reason this fee is incorrect, Applicant respectfully requests the right to pay the proper fee in a timely fashion.

Summary of Examiner's Office Action:

The Examiner indicated that the claims 1-3 which are pending were non-finally rejected stating that Applicant's prior arguments were moot in light of Ericson(4,978,143). Examiner gave Applicants claims 1-3 a rejection under 35 USC 102(b) indicating that the Applicant's invention was previously invented by Ericson. Examiner cites the hinged fold lines of 69 and 57b of Ericson and the Ericson interceding panels as the structures which prevent Applicant's novelty and patentability. Examiner cites the non-limiting nature of language or words given non-patentable weight in Applicant's claims including "foldable material", "for permitting", "for forming", and "a sticky loop".

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Applicant's response:

1. There are three claims pending in this case. Since these claims were provided in a series of responses and amendments, Applicant purposely includes all three clean amended claims here first as a courtesy in order to expedite the processing of this case. These claims are exactly as they were amended in prior actions and are the exact claims which the Examiner has rejected in this current office action.

2. With regard to the use of Ericson (4,978,143), Applicant respectfully points out that this patent and the structures indicated by the Examiner are fundamentally different than Applicant's and are different than the Examiner has infact interpreted them. On May 5th at approximately 11:50 am Applicant made a call to the Examiner to clarify the use of Ericson in a good faith effort to discuss the Examiners interpretation. However, the discussion could not get scheduled for an additional 2 days hence, which would have thrown the case into a second month of extension, therefore Applicant respectfully submits the argument against the applicability of Ericson based on a misinterpretation of a structure in Ericson and does so here in written response below, clearly identifying the portion of the Ericson patent that definitively reclarifys the Examiner's interpretation of both elements 57B and 69 of Ericson, then based on the Ericson purpose of these structures respectfully traverses the Examiner's 35 USC 102(b) rejection based on his incorrect application of the structure of Ericson.

Traversal of rejection under 35 USC 102(b)

"Dispute of Examiner's interpretation of Ericson": Examiner suggests that Ericson has two perforated hinge lines 69 and 57b defining three panels which fold and on which Applicant's claims therefore read.

Examiner Misinterpretation of(element 57B)->Applicant points out that in Ericson, column 6 line 59, that "the object" 57B is not a hinge of any kind as suggested by the Examiner but instead is "an alternative base layer which is made of opaque flexible sheet material such as paper." Further stating in line 60 and 61 that "Base layer 57B is generally H shaped, I.e. is the same shape as layer 58". Therefore 57B is not a perforated fold line and consequently Examiner's rejection which is based on the formation of panels using this hinged line is not accurate, does not relate in any manner to Applicant's invention, and does not contribute in any way to form panels on

which Applicant's claimed invention in claims 1,2,and 3 pending in this case is alleged to read. Therefore on this basis, Applicant respectfully traverses the rejection under 35 USC 102(b) since the Ericson structure is different, does not teach, and is not in any manner applied as in Schwartz claims 1, 2 and 3 and therefore Applicants claims 1,2, and 3 do not read on Ericson structure. Since the Ericson structure is different, and since it does not teach three panels of their respective predetermined widths, and is not used in any manner applied as in Schwartz claims 1, 2 and 3, Applicant holds that claims 1,2 and 3 as filed are patentable over Ericson and should be allowed as amended.

Examiner Misinterpretation of(element 69)->Further hinge line 69 is also misinterpreted by the Examiner. Hinge line 69 does not participate in any manner in forming more than a two panel structure. Applicant respectfully points out to the Examiner that in column 6 line 17, Ericson clearly states that "-a front portion 66 and a rear portion 67 shorter in length than the front portion 66...taper toward each other along rounded side edges 68 and meet at transverse weakened fold line 69, at which tab 13 has it's minimum thickness". Therefore, line 69 is ACTUALLY meant to overlay the dotted line in the figures which is the transverse line which bisects the symmetrically opposing rounded sides 68. He clearly draws it "above" as if in perspective, but recited it as the line defining the join of the symmetrically rounded front and rear tab portions, line 69 is a fold hinge that clearly defines TWO panels and only two panels. Therefore when the tab structure in Ericson is actually folded on 69, you get the tab as shown in the figure 2. Therefore Ericson as recited and displayed using single fold line 69 forms a tab with two halves. Ericson never forms three panels as does Schwartz, but rather forms a front and back panel of a tab. Therefore on the basis that the sole hinge line 69 as properly interpreted to be positioned forms solely two panels front tab portion 66 and rear portion 67; Applicant respectfully traverses the rejection under 35 USC 102(b).Applicant further points out that even if hinge line 69 were physically placed above the intersection of the front and rear tab portions of Ericson, the interceding panel would not conform to the Applicant's claimed structure in claims 1,2 and 3 pending in this case. Since the Ericson structure is different, and since it does not teach three panels of their respective predetermined widths, and is not used in any manner applied as in Schwartz claims 1, 2 and 3, Applicant holds that claims 1,2 and 3 as filed are patentable over Ericson and should be allowed as amended.

Applicant further points out that in Ericson Fig 7, the elevations of Ericson tab 13 are formed from a series of layers having no less than 4 substrates. Applicant clearly is patenting a single substrate with hinged folds at predetermined distances which permit the formation of a sticky loop by the adhesion of each of the end panels one to the other. In order to more clearly demonstrate the Applicant's invention to the Examiner, Applicant has included a sample of his invention in two forms (1) the flat planar substrate, (2) a sample folded and used to hold two leaves together.

Applicant respectfully requests that in light of the traversal of Ericson and the prior arguments which Applicant has made against all the prior art cited by the Examiner that the Examiner reexamine the three claims as shown here which are clean amended claims pending in this case, allow them, and permit this patent to issue in due course as amended.